

**ENTERED**

December 21, 2022

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

ELMEN HOLDINGS, LLC,  
*Plaintiff,*

V.

MARTIN MARIETTA MATERIALS, INC.,  
SUCCESSOR BY MERGER TO TEXAS  
INDUSTRIES, INC.,  
*Defendant,*

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CIVIL ACTION NO. 4:19-cv-3293

**ORDER ADOPTING MAGISTRATE JUDGE'S  
AMENDED MEMORANDUM AND RECOMMENDATION**

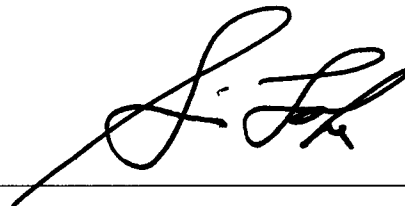
Having reviewed the Magistrate Judge's Amended Memorandum and Recommendation dated November 22, 2022 (Dkt. 96), the objections thereto (Dkt. 97), and the response to objections (Dkt. 98), the court is of the opinion that said Amended Memorandum and Recommendation should be adopted by this court.

It is therefore **ORDERED** that the Magistrate Judge's Amended Memorandum and Recommendation is hereby **ADOPTED** by this court.

It is further **ORDERED** that Elmen's renewed Motion for Summary Judgment (Dkt. 88) is **GRANTED** and Martin Marietta's renewed Motion for Summary Judgment (Dkt. 87) is **DENIED**.

The court will issue a separate Final Declaratory Judgment.

**SIGNED** at Houston, Texas this 21st day of December, 2022.



SIM LAKE

SENIOR UNITED STATES DISTRICT JUDGE